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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/133,801    08/13/98    JOHNSON    J    10172-9013-I

IM52/0509  
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EXAMINER
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ART UNIT	PAPER NUMBER
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GRAY, I  
1734  
DATE MAILED: 05/09/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/133,801

Applicant(s)  
Johnson

Examiner  
Linda L. Gray

Art Unit  
1734



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10-16-00, 3-26-01, and 4-30-01
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 25-29 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-29 is/are rejected.
- 7) ☒ Claim(s) 26 and 27 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Request for Continued Examination**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4-30-01 has been entered.

### **Claim Objections**

2. **Claim 26 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.**

Applicant is required to cancel the claim, amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. Claim 26 recites a limitation already recited in claim 25.

3. **Claim 27 is objected to because (a) -- flexible interlocking -- should be inserted before "fastener" (L 2), (b) "flexible interlocking fastener lip" (L 3-4) should be changed to -- lips --, and (c) "said" (L 4) should be deleted.**

### **Claim Rejections - 35 USC § 112**

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. **Claims 25-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.**

**Claim 25**, it appears at lines 15-16 (marked up copy) that "said engaging portion" should be the flexible interlocking fastener recited on line 7 in that the complementary engaging portion is engaged with the flexible interlocking fastener and not to itself.

### **Response Section**

6. The substitute specification filed 10-16-00 has been entered. The amendments to claims 25 and 27 have been entered.

**Allowable Subject Matter**

**7. Claims 25-29 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, second paragraph, set forth in this Office action.**

**8.** The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not teach forming a perforation on the front wall intermediate the complementary engaging portion and the end of the bag.

**9.** As allowable subject matter has been indicated, Applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with, 37 CFR 1.111(b) and MPEP § 707.07(a).

**Conclusion**

**10.** Any inquiry concerning this communication or earlier communications should be directed to Examiner Linda L. Gray at (703)308-1093, Monday-Friday from 8:00 am to 4:30 pm. The necessary fax numbers are (703)305-7718 (official faxes), (703)305-7115 (unofficial faxes), and (703)305-3599 (faxes after final Office action).

llg  
May 8, 2001

*Linda L. Gray*  
LINDA GRAY  
PRIMARY EXAMINER